

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
NORTHWESTERN DIVISION**

American Promotional Events, Inc,)	
)	
Plaintiff,)	ORDER DENYING MOTION FOR
)	PRELIMINARY INJUNCTION
vs.)	WITHOUT PREJUDICE
)	
Terry Gaudreau, and TNT Fireworks,)	Case No. 4:06-cv-014
Inc., a Montana corporation,)	
)	
Defendants.)	

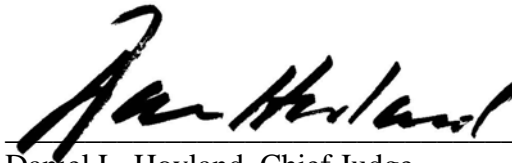
Before the Court is the Plaintiff's Motion for a Preliminary Injunction filed on March 14, 2006. Under the Local Rule 7.1(A), an adverse party has ten (10) days to file a response to a non-dispositive motion such as a motion for a preliminary injunction. Three (3) additional days are allowed under Rule 6(e) of the Federal Rules of Civil Procedure. By the Court's calculation, the Defendants' response was due on Friday, March 31, 2006. However, neither of the Defendants have filed a response. In fact, neither of the Defendants have answered the complaint or entered an appearance in this matter.

A closer inspection of the file reveals a plausible explanation for the Defendants inaction. It appears that none of the Plaintiff's pleadings thus far have been served upon the Defendants. The file contains no summons returned executed, and neither the motion for preliminary injunction, nor the accompanying brief, contain an affidavit of service. It is well-established that proof of service is mandatory in this situation. See Fed. R. Civ. P. 5(d) and Local Rule 4.2(B). Without such service, a preliminary injunction may not be granted. See Rule 65(a) ("No preliminary injunction shall be issued without notice to the adverse party.").

With no proof of service, the Court is in no position to grant injunctive relief at this time. For that reason, the Plaintiff's Motion for Preliminary Injunction is **DENIED** without prejudice. (Docket No. 3). The Plaintiff may renew its motion once the appropriate documentation is filed to establish proof of service.

IT IS SO ORDERED.

Dated this 4th day of April, 2006.

A handwritten signature in black ink, appearing to read "Dan Hovland", is written over a horizontal line.

Daniel L. Hovland, Chief Judge
United States District Court